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Attorneys for Plaintiff  
GORDIUM INNOVATIONS LLC

IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA

GORDIUM INNOVATIONS LLC,

Plaintiff,

v.

TC COMMUNICATIONS, INC.,

Defendant.

Civil Case No. \_\_\_\_\_

**PLAINTIFF GORDIUM  
INNOVATIONS LLC'S  
ORIGINAL COMPLAINT FOR  
PATENT INFRINGEMENT AND  
DEMAND FOR JURY TRIAL**

**JURY TRIAL DEMANDED**

Plaintiff Gordium Innovations LLC, for its Complaint against Defendant TC Communications, Inc., alleges the following:

**NATURE OF THE ACTION**

1. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. §§ 1, et seq.

**THE PARTIES**

2. Plaintiff Gordium Innovations LLC is a limited liability company organized under the laws of the State of Texas with its principal place of business at 106 Fannin Avenue, Round Rock, TX 78664-5219.

1           3.     Upon information and belief, Defendant TC Communications, Inc. is a  
2 corporation organized under the laws of the State of California, with its principal  
3 place of business at 17881 Cartwright Rd., Irvine, CA 92614, and a registered agent  
4 for service of process at Kai-Lang Liang, 17881 Cartwright Rd., Irvine, CA 92614.

5                                   **JURISDICTION AND VENUE**

6           4.     This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and  
7 1338.

8           5.     Defendant is subject to the jurisdiction of this Court by reason of its  
9 acts of patent infringement which have been committed in this Judicial District, and  
10 by virtue of its regularly conducted business and systematic business contacts in  
11 this state, including maintaining its principal place of business in this District and  
12 its organization under the laws of the State of California.

13          6.     Defendant has established sufficient minimum contacts with this  
14 Judicial District such that it should reasonably and fairly anticipate being haled into  
15 court in this Judicial District.

16          7.     Venue is proper in this judicial district under 28 U.S.C. §§ 1391(c) and  
17 1400(b).

18                               **COUNT I – INFRINGEMENT OF U.S. PATENT NO. 6,697,385**

19          8.     The allegations set forth in the foregoing paragraphs 1 through 7 are  
20 incorporated into this First Claim for Relief.

21          9.     On February 24, 2004, U.S. Patent No. 6,697,385, entitled “Circuit(s),  
22 Method(s) and Architecture for Configurable Packet Re-timing in Network  
23 Repeater Hubs,” was duly and legally issued by the United States Patent and  
24 Trademark Office. A true and correct copy of the ’385 Patent is attached as Exhibit  
25 A to this Complaint.

26          10.    Gordium is the assignee and owner of the right, title and interest in and  
27 to the ’385 Patent, including the right to assert all causes of action arising under the  
28 ’385 Patent and the right to any remedies for its infringement.

1           11. In violation of 35 U.S.C. § 271, Defendant has directly infringed and  
2 continues to directly infringe, literally and/or under the doctrine of equivalents, the  
3 '385 Patent by making, using, selling and/or offering for sale in the United States,  
4 including in this Judicial District, networking devices providing data prioritization  
5 features as claimed in one or more claims of the '385 Patent ("the Accused  
6 Products and Services"), without the authority of Gordium. For example, the  
7 Accused Products and Services receive delay control signals in the form of priority  
8 bits, or 3-bit fields within Ethernet frame headers, in inbound packets. While a  
9 packet is not being transmitted, these products use the priority bits to configure  
10 delays for sending received packets, utilizing priority queues and a transmission  
11 selection algorithm (e.g., strict priority queuing).

12           12. The Accused Products and Services include, but are not limited to, the  
13 JumboSwitch (TC3840).

14           13. Gordium provided actual notice to Defendant of its infringement of the  
15 '385 Patent in a letter sent by certified mail on December 5, 2014. The letter  
16 informed Defendant that the Accused Products and Services appeared to directly  
17 infringe the '385 Patent, and identified the relevant features of the Accused  
18 Products and Services. The December 5<sup>th</sup> letter also informed Defendant that  
19 Defendant's actions, including advertising, marketing, and providing instruction  
20 manuals and materials, induced others to infringe the '385 patent and cited at least  
21 one specific example. A copy of the December 5<sup>th</sup> letter is attached hereto as  
22 Exhibit B to this Complaint.

23           14. Defendant has had actual knowledge of the '385 Patent since at least  
24 the date it received Gordium's December 5<sup>th</sup> letter.

25           15. Upon information and belief, Defendant engaged in the actions  
26 described in paragraph 11 of this Complaint with specific intent to cause  
27 infringement or with willful blindness to the resulting infringement because  
28 Defendant has had actual knowledge of the '385 Patent and that its acts were

1 infringing the '385 Patent since at least the date it received the notice letter from  
2 Gordium notifying Defendant that its products and services infringed the '385  
3 Patent.

4 16. Upon information and belief, Defendant has induced and continues to  
5 induce others to infringe one or more claims of the '385 Patent under § 271(b) by,  
6 among other things, with specific intent, actively and knowingly, since at least as of  
7 the date it received Gordium's December 5<sup>th</sup> letter, aiding and abetting others to  
8 infringe, including, but not limited to, Defendant's customers and other users,  
9 whose use of the Accused Products and Services constitutes direct infringement of  
10 one or more claims of the '385 Patent. In particular, Defendant acted and continues  
11 to act with specific intent to make others, such as its customers, infringe by  
12 advertising and selling products and providing instruction manuals showing  
13 infringing uses of the products and services. For example, For instance, TC  
14 Communications' website contains a whitepaper on QoS Prioritization using  
15 802.1p, which Gordium quoted in relevant part in the December 5<sup>th</sup> letter. TC  
16 Communications' datasheets and user manuals for the Accused Products and  
17 Services also inform TC Communications' customers and end-users of the  
18 products' infringing features by describing the products' capability for delaying  
19 traffic using Class of Service priority queues. On information and belief, since the  
20 time it received Gordium's December 5<sup>th</sup> letter informing it that it was inducing its  
21 customers and users to infringe the '385 Patent, Defendant engaged in, and  
22 continues to engage in, such actions with specific intent to cause infringement or  
23 with willful blindness to the resulting infringement.

24 17. Because of Defendant's infringing activities, Gordium has suffered  
25 damages and will continue to suffer damages in the future.

### 26 **JURY DEMAND**

27 Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Gordium  
28 demands a trial by jury on all issues triable as such.

**PRAYER FOR RELIEF**

WHEREFORE, Gordium respectfully requests that this Court enter judgment for Gordium and against Defendant as follows:

- A. an adjudication that Defendant has infringed the '385 Patent;
- B. an award of damages to be paid by Defendant adequate to compensate Gordium for Defendant's past infringement of the '385 Patent and any continuing or future infringement through the date such judgment is entered, including interest, costs, expenses and an accounting of all infringing acts including, but not limited to, those acts not presented at trial;
- C. an order that Defendant pay an ongoing royalty in an amount to be determined for any continued infringement after the date judgment is entered;
- D. a declaration that this case is exceptional under 35 U.S.C. § 285, and an award of Plaintiff's reasonable attorneys' fees;
- E. an award to Gordium of such further relief at law or in equity as the Court deems just and proper.

Dated: January 8, 2015

Respectfully,

/s/ Jonathan Baker

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